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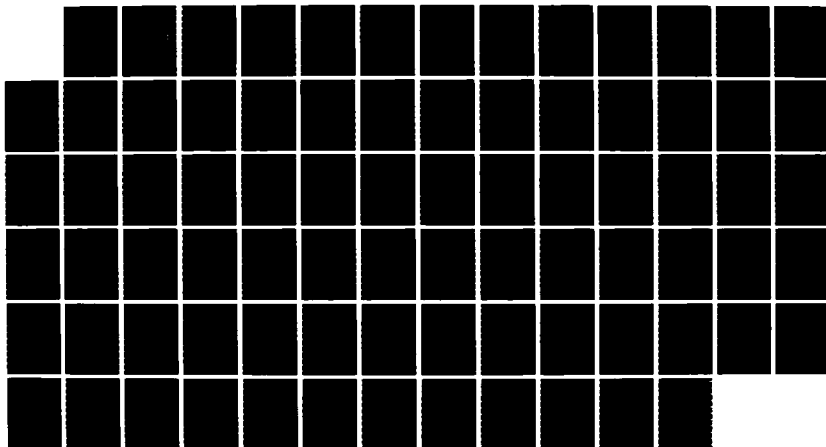
RESPONSIBLE SOLDIERING IN THE NUCLEAR AGE: INFERENCES
FROM THE CATHOLIC B.. (U) ARMY COMMAND AND GENERAL STAFF
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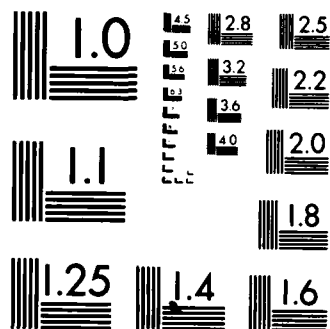
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RESPONSIBLE SOLDIERING IN THE NUCLEAR AGE:
INFERENCES FROM THE CATHOLIC BISHOP'S PASTORAL ON
NUCLEAR WAR

AD-A172 450

A thesis presented to the Faculty of the U.S. Army
Command and General Staff College in partial
fulfillment of the requirements for the
degree

MASTER OF MILITARY ART AND SCIENCE

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by

MASON E. SMITH, LTC, USA
M.A.I.R., Creighton University, 1975

Fort Leavenworth, Kansas
1986

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The study concludes that ultimately we are responsible for the decisions and choices that we make. Soldiers are not absolved, especially within the Judeo-Christian context, from the obligation to make choices based upon sound moral reasoning, simply because they are engaged in activities which run against the grain of orderly human existence. In fact, because of the nature of soldierly obligations, the soldier's standard may be more stringent. If the foregoing logic holds, then a soldier must expect and be provided a guide or set of standards against which he can measure his contemplated action in the potential to actual nuclear environment. That set of standards, or code of ethics, in order to be truly professional, must allow for rule of conscience and assume a relationship which transcends national institutional and territorial integrity.

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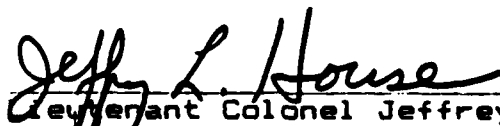
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The opinions and conclusions expressed herein are those of the student author and do not necessarily represent the views of the U.S. Army Command and General Staff College or any other governmental agency. (References to this study should include the foregoing statement.)

ABSTRACT

RESPONSIBLE SOLDIERING IN THE NUCLEAR AGE: INFERENCES
FROM THE CATHOLIC BISHOP'S PASTORAL ON NUCLEAR WAR,

by Lieutenant Colonel Mason E. Smith, USA, 72 pages.

This study is an attempt to develop an ethic for those who must perform soldierly duties in this era. It is an examination of core values, and how these values have been translated into military ethics and obligations within the context of western civilization.

This study uses the most recent application of just war theory, the Catholic Bishop's Pastoral on nuclear war, The Challenge of Peace: God's Promise and Our Response, and compares its instruction to selected findings of another contemporary application, the Nuremberg War Trials. The manner in which we construct and reinforce our moral values in conscience, coupled with appreciation for the sanctity of human existence, evolve as fundamental underlying principles. After having established the scope of authority from which the Catholic Bishop's Pastoral derives its credibility, these principles are compared against the United States Army Ethic and a contemporary ethic is proposed.

The study concludes that ultimately we are responsible for the decisions and choices that we make. Soldiers are not absolved, especially within the Judeo-Christian context, from the obligation to make choices based upon sound moral reasoning, simply because they are engaged in activities which run against the grain of orderly human existence. In fact, because of the nature of soldierly obligations, the soldier's standard may be more stringent. If the foregoing logic holds, then a soldier must expect and be provided a guide or set of standards against which he can measure his contemplated action in the potential to actual nuclear environment. That set of standards, or code of ethics, in order to be truly professional, must allow for rule of conscience and assume a relationship which transcends national institutional and territorial integrity.

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CHAPTER 1

INTRODUCTION

Those of us who train and plan for the conduct of nuclear warfare do indeed influence the destiny of this planet and life as we now know it. It is not the process which governs this judgment, that causes us to pause and consider our condition, but rather it is the product itself which is frightful. It is frightful in the sense that mankind has achieved a collective condition from which he can virtually alter those constants of his environment so as to make life as we now know it near impossible.

For those responsible members of the Armed Forces, this revelation is certainly not a contemporary realization. Nor is it an issue which the defense establishment feels obliged to shield from public scrutiny. More than thirty years ago our most prominent soldier articulately characterized what has become the challenge of this century.

Military Alliances, balances of power, leagues of nations, all in turn failed, leaving the only path to be by way of the crucible of war. The utter destructiveness of war now blocks out this alternative. We have had our last

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chance. If we will not devise some greater and more equitable system, our Armageddon will be at our door. The problem basically is theological and involves a spiritual recrudescence, an improvement of human character that will synchronize with our almost matchless advances in science, art literature and all material and developments of the past two thousand years. It must be of the spirit if we are to save the flesh.

General Douglas MacArthur,
Speech to the Joint Meeting of
Congress, April 19, 1951

Three decades following General MacArthur's speech to Congress, the National Conference of Catholic Bishops published a now controversial Pastoral Letter on war and peace in the nuclear age. This letter generated a pervasive controversy(1), due in part to the sensitive nature of its substance, and in part to the fact that old fears of church-state meddling die hard. One point in this continuum of discontent, however, remains undisputed. Nuclear weapons reach out to touch the very fabric of contemporary human existence.

It is this last point, and General MacArthur's characterization of the problem as "basically theological", which provides the framework for an

understanding of this recent, lengthy and highly controversial instruction. If General MacArthur was correct, then the American Bishops' Pastoral letter on War and Peace may well be seen as a reaffirmation of "the importance of religion as an essential support to public order and morality." (2) In a more specific sense, it may offer incisive moral direction when applied to the evaluation of those ethical standards that govern soldiering in a nuclear age.

PERSPECTIVE ON SUBSTANCE

The Challenge of Peace: God's Promise and Our Response (3) properly concentrates upon the larger issues of nuclear warfare, the responsibilities of states and the general application of traditional theory to war and peace in our modern world. Within the context of a long and complex Catholic tradition on this subject, it outlines universally binding moral principles. (4) At the same time, however, it:

makes specific applications, observations and recommendations which allow for diversity of opinion on the part of those who assess the factual data of situations differently. (5)

By so doing, it elicits response from members of the laity, differently informed regarding these facts, and by implication assumes a constituency beyond purely practicing Catholics. What becomes pertinent to this thesis, however, is the more narrow question of "Pastoral Challenge and Response" as this concept applies to the obligations of serious Catholics and other morally concerned men and women in the military service. More specifically we might ask: Can a prescription be developed for ethically correct individual action in this nuclear era, based upon the tenets of the Bishops' Pastoral Letter, which defines viable courses of action open to members of the military community as they carry out their daily tasks? This same question approached critically might read: Does an attempt to abide by the principles of the Bishops' Pastoral letter and the tenets of the military professional ethic place practicing Catholics, and other serious moral thinkers, in an untenable moral dilemma?

In an attempt to reduce and focus upon these questions, this thesis accepts distinctions drawn by the Bishops' Conference regarding its constituency and the audience for whom their letter is intended.

Minimumly it includes "the Catholic faithful formed by the premises of the Gospel and the principles of Catholic moral teaching." (6) It equally offers association to the wider "civil community; a more pluralistic audience in which our brothers and sisters with whom we share the name Christian, Jews, Moslems, and other religious communities, and all people of good will" (7) find comfort. The latter subset derives its affiliation from the universality of moral principles common to all men.

I have further focused upon the officer corps as a subset of the military community as they perform their roles as teachers as well as soldiers. It is they who ultimately are responsible for pursuit of the military ethic. (8)

In this thesis I intend to examine whether or not the position of the Council and that of the military ethic are in conflict. In doing so I begin with a review of literature, followed by an examination of the general nature of ethics, and then more specifically the military ethic as it relates to the Bishop's Pastoral Letter. The latter two positions potentially act as countervailing forces. If they

prove to be operating at odds, I will then examine whether or not each proponent agency is working within the scope of its authority. If it proves that each is independently within its proper scope, I shall then attempt to propose some form or method of reconciliation.

CHAPTER 1

ENDNOTES

1. Donald A. Davidson, Nuclear Weapons and the American Churches: Ethical Positions on Modern Warfare (1983): xi.

2. Avery Dulles S.J., "Thinking It Over," Wilson Quarterly Vol. V, No. 4 (Autumn, 1981): 131.

3. The Challenge of Peace: God's Promise and Our Response (1983).

4. Ibid., 56. In sum, the universally binding moral principles deal with the general immunity granted to innocents and non-combatants, and the proportionate use of force.

5. Ibid., 1.

6. Ibid., 6.

7. Ibid.

8. This conclusion is inescapable. See Samuel P. Huntington, The Soldier and the State (1957): 11-18 and 62-64.

CHAPTER 2

REVIEW OF LITERATURE

A review of literature associated with responsible soldiering must start with an examination of that which we are about--the conduct of warfare. Once made, we can then begin to examine whether or not norms of conduct can be established for those associated with its prosecution. The central question of this paper represents a complicated and personal search for that way of acting professionally. By way of examination, I have asked some very basic questions which deal with fundamental philosophies and professional values that transcend soldiering. The questions: Who am I professionally, where am I going with this profession, and how do I get there form the pedagogical foundation for my examination.

In framing my argument I have chosen to draw upon the wisdom of ancient philosophers, and to let that wisdom serve as the foundation for an examination of a very contemporary problem unique to twentieth century man. Using this method, I intend to evolve a bias which clearly favors Aristotelian-Thomistic ethical constructs. That is, a particularly ordered dialectic

frame of mind based upon deductive reasoning. It represents a method of search for "truth" in a contemporary setting, dealing with a contemporary issue, based upon time tried rationalization. Austin Fagothey notes that it is a method of search which:

may be external (where) our knowledge (of the subject) is fragmentary. Newly discovered fragments must be fitted into the whole, either bringing out more clearly the old picture, adding to it a new perspective, or correcting a previously hasty judgment as to how the picture should develop.(1)

Within this method of reasoning, that is the examination of an old picture, the time worn issue of an ethical code for military officers acquires relevance from a new perspective: That of the Bishops Pastoral Letter, and eases us further along in our search for "truth".

Just thinking about the subject of a code of ethics for soldiers is in itself a complicated process and must involve a look at the nature of warfare. Fagothey's Right and Reason: Ethics in Theory and Practice, by Milton A. Gonsalves, and its previous edition by Austin Fagothey has provided a base line

for organizing my thoughts according to what they call the "Aristotelian-Thomistic synthesis". Both editions provide a rudder for this study which I believe emanates from a simple and consistent point of view. Faghothey's Right and Reason, and the earlier edition by Father Fagothey himself, provide a succinct and readable analysis of what can be said "to be the ultimate in human social failure".(2) In his chapter on "War" Gonsalves specifically asks seven basic questions within the Aristotelian-Thomistic tradition, five of which provide instruction for this study.

1. Is there a middle ground between militarism and pacificism?
2. Is there a moral justification for war?
3. What is the Just-War Theory and its conditions?
4. How can we assess the morality of nuclear warfare?
5. Is nuclear deterrence justifiable?

These questions framed in what he calls Practical Ethics, give way to more basic questions governing conduct, responsibility and conscience. The latter, which he labels elements of Theoretical Ethics, I have quoted from extensively.

If Fagothey's Right and Reason provides the base line for this study then Richard A. Gabriel's To Serve With Honor: A Treatise On Military Ethics and the Way Of The Soldier provides its focus. Gabriel clearly understands and articulates:

What those who have served in the profession through-out history have always known: That the effectiveness and success of a military force rests more on the moral quality of its officers and men than it does on technical expertise.(4)

Gabriel sets out to find that "sense of ethical certainty" which all professionals require in order To Serve With Honor. Several of my specific code recommendations are in fact direct quotations from Gabriel. He argues that confusion surrounding a military ethic emanates from two basic issues.

"The first involves a tendency to confuse the ethics of the professional with the ethics of the good

moral life." (5) Gabriel argues that an attempt to liken membership in a profession to being a good man, simply because one lives according to the tenets of that profession, is an error "of the first order." In fact Gabriel is correct as I argue in the remaining chapters of this paper. The converse is indeed true, one must first be a morally straight man in order to be an ethically straight soldier.

The second issue that Gabriel raises follows from the first. Gabriel contends that there is a tendency within the military to confuse an "ethic of virtue" with an "ethic of duty". (6) Simply because a man possesses certain traits of character, or virtues, does not guarantee that he will always act ethically. At its extreme, to make this assumption attempts to deny a man the opportunity to be author of his own choice. Conceivably, guidelines can be posited to help him make an informed and hopefully morally correct choice, but ownership of choice remains with the individual in each unique adventure.

If Fagothey's Right and Reason provides the base line for this study, and Gabriel's To Serve With Honor, its focus; then the Bishop's letter must

outline "the framework and essential terms of the present debate." (7) At first glance the arguments contained in The Challenge Of Peace seem to provide simply a repackaging of old just war issues. However, on closer examination a change in tone and drift surface with respect to the nuclear question.

"Nuclear Weapons particularly and Nuclear Warfare as it is planned today raise new moral questions." (8) Robert W. Tucker outlines this shift of positions with respect to the legitimate use of nuclear weapons in, "The Nuclear Debate", found in the Fall 1984 edition of Foreign Affairs. (9) It is not the fact that nuclear weapons exist and form the basis for our own destruction that is essential to the new debate, but rather it is "the new elevations of that predicament" (10) which have changed the context of its argument.

The Bishop's observe that "what previously had been defined as a safe and stable deterrence is today viewed with moral skepticism". (11) Tucker notes that the climate itself was considerably different twenty years ago, following the publication of the Second Vatican Council's Pastoral Constitution of the Church In The Modern World, December 7, 1965, by the then National Catholic Welfare Conference. At that time,

the Vatican Council applied the Just-War measure of discrimination, not to condone the use of nuclear weapons, but on the other hand not to summarily condemn their use so long as they are not "aimed indiscriminately at the destruction of entire cities or extensive areas along with their populations." (12) A discriminate application of nuclear force seemed to be tolerated and deterrence as a concept and policy remained intact.

The Catholic Bishops, on the other hand, in The Challenge of Peace, step considerably beyond this point to actually limit use of nuclear weapons (13), reasoning from the position of proportionality. Proportionality, another just war concept, suggests that some reasonable ratio must be drawn in favor of the good to be achieved versus the destruction caused by the use of a destructive means.

Both concepts flow from the basic philosophical principle that it is wrong to commit an act which causes more harm than good. In effect, they argue that the use of these weapons cannot be controlled and the destruction caused by their use cannot be limited. This argument finds particular applicability in a

Western European context, where urbanization and the proliferation of villages and towns prevails, especially in Eastern West Germany.

What the Bishops appear to have done by invoking the principle of proportionality is to set a series of conditions to be satisfied before a nuclear weapon can be used. By expressly condemning indiscriminate and disproportionate warfare as preordained conditions, they may have so limited the use of nuclear weapons as to nearly preclude their use. If these conditions are acceptable, then a logical linkage can be drawn between the moral correctness of nuclear warfare and the threat to conduct that form of warfare, the latter forming the heart of deterrence. Once that linkage is made, then the strategy itself becomes suspect and those individuals charged with it's execution must pause to consider their role.

Needless to say, this interpretation has stimulated considerable debate. Bruce Russett argues in "Ethical Dilemmas of Nuclear Deterrence", found in International Security, that the Bishops' condemnation was not absolute. Russett finds justification for the planned use of nuclear weapons, but not their actual

use.(14) This distinction is dealt with to considerable extent by Robert McNamara writing in Foreign Affairs, Fall 1983.(15) In this article, "The Military Role of Nuclear Weapons: Perceptions and Misperceptions," McNamara argues that nuclear weapons were never meant to be used. If McNamara is correct, then his thesis leads us full circle back to the question of whether or not the threat to perform an immoral act is an immoral act itself.

Robert W. Shaw picks up the argument in "Nuclear Deterrence and Deontology" in Ethics, January 1984.(16) Shaw is able to defend the moral legitimacy of nuclear deterrence within a deontological framework, finding that nuclear deterrence as a "pure case" need not be impermissible. He is careful, however, to caution that this defense of the pure case, the case for planned use, should not be transferred directly to a morally legitimate finding in favor of American strategic policy. In this regard, he notes that the application of a basic moral tenet to practices which lie at the core of a policy must be judged within the complex environment in which that policy is made, as well as the environment in which

the permissibility of aspects of that policy additionally come in question. Without passing judgment on policy, Shaw moves the argument back into a systemic framework in which the rightness or wrongness of a specific act, or the planning for that act, may find justification. It is possible that by developing a nuclear deterrent, and training to deliver that deterrent, some perverse form of moral transfer occur regarding its actual use.

Rather than simply completing the circle, the "new debate" begins to take on a character of its own. Beginning with Tucker, above, and following his argument through Russett, who takes a different if not contrary approach, and then to McNamara, who questions the basic premise of Russett; and then to Shaw who arguably weaves both back on to seemingly safe ground, prompts us to find out why we could not leave the well enough of Vatican II alone.

A more specific look at the development of the basic document which has caused so much controversy is clearly in order. Jim Castelli, in The Bishop's and the Bomb: Waging Peace in a Nuclear Age, (17) provides an indepth look into the behind the scenes maneuvering

and church politics involved in the two-year debate over its contents. Castelli was given direct access to records and meetings chaired by Cardinal Bernardine, under whose stewardship the letter was prepared at the behest of the US Catholic Conference. What he offers is a look into the character of the Church hierarchy as it dealt with its own internal debate, as well as external public pressures, while trying to exercise what it sees as a teaching role on a very complex, highly politicized moral issue of potentially staggering consequence.

Probably the most valuable early analysis of this debate comes in Judith A Dwyer's The Catholic Bishops and Nuclear War: A Critique and Analysis of the Pastoral The Challenge of Peace. (18) This is an edited text which attempts to capture a divergents of opinion surrounding the Bishops' letter under the guise of a single theme. This collection of essays focuses upon the meaning of realism and how interpretations of that meaning have produced a wide range of conclusions as well as spin-off issues of the type seen in Russett, McNamara and Shaw.

Dwyer's approach is particularly instructive for

this paper because it represents exactly what I am attempting to do. I hope to find an application for wider meaning and substance which can be applied to related issues within the framework of this letter. Specifically, I hope to find and develop a perscription for ethically correct behavior on the part of soldiers charged with the possible prosecution of nuclear war. To do so requires that I skirt the larger issue of nuclear deterrence policy and focus on the role of an individual. The latter will require that I impute meanings drawn from the pastoral and frame those meanings within a discussion of realism similar to that found in Dwyer. I am operating between the extremes of pacificism, nonviolence and nuclear warfare in the application of bellicose theory.

The Francis X. Winters article(19) in the Dwyer volume is of particular value. As with most articles on the letter, it also deals with the larger question of war and peace. Consistent with the rest of the volume, Winters outlines the radical nature of the debate seeing a larger effort on the Bishops part surface as they try to reject unilateral disarmament and at the same time reject use of nuclear weapons.

Beyond this issue, however, he also sees the Council forbid Catholic Officers from taking part in those military strategies which "violate human instincts that control the use of violence." (20) Winters asserts that the Bishops "forbid Catholic officers to participate in certain integral functions of the present deterrent strategy, such as attacking civilian centers." (21) In fact he argues for the possession of the deterrent with a declaratory non-use policy, but without giving much consideration to the possibility that such a policy could be revoked or reversed.

This belief seems to rest on the perception that a US policy to renounce utilization of the arsenal, coupled with the maintenance of the arsenal itself, would be dismissed by the Soviets as merely (and perversely deceptive) declaratory policy adopted for propaganda purposes. (22)

The issue of credibility and all of its implications are available for question with the logical extension of this argument.

What Winters does lead us to is a variation of the counter concept of reassurance, which Michael Howard treats in his article "Deterrence, Consensus and Reassurance in the Defense of Europe," found in

Adelphi Papers. (23) Reassurance is that comfortable feeling which should flow from a nuclear stalemate of near equal possession. What seems clear, however, is that in order for the policy of deterrence to both deter and reassure, the weapons must first exist, be so deployed and targeted. Winters in effect moves us into the realm of realism and the maintenance of the status quo.

McGeorge Bundy reinforces Winters reasoning in his 1983 New York Times Review of Books article "The Bishops and the Bomb". (24) Bundy's "existential deterrence" goes beyond Winters' argument for simply holding the weapons, and allows for exercise of those functions common to their use: deployment, targeting, conduct of readiness exercises, communications planning, general housekeeping functions, etc. The presumption here is that an officer or soldier who chooses to participate in these functions tacitly accepts or agrees to consider their possible use. Winters might then judge this transition as immoral. Is it possible that by developing nuclear weapons, training to deliver these weapons, and then declaring a nonuse policy, that some perverse sense of moral

transfer occurs, separating the policy maker from its executor? Is it conceivable that the policy makers might escape with near clean hands at the expense of those whom they charge to execute their policy? Is this not a transfer of authority wholly inconsistent with our understanding of chain of social and political responsibility? A look at these and related questions is best saved for later consideration.

What Winters does argue relative to the above series of questions is that a particular genius of design on the part of the Bishops emerges and is central to finding a deeper meaning to their letter. Throughout its history the church, by design, has attempted to "hobble governments by denying them the personnel necessary to carry out their unwarranted military campaigns." (25) It is this moral impact upon the agents of a government, which results in an attempt to hobble that government, that concerns us here.

William O'Brien's essay in Thought (26) is an extension of his thinking from a previous article in the Dwyer collection, linked to Winters and Bundy by the realism theme. While arguing against the Bishop's conclusion that nuclear war can ever be controlled, he

takes the same logical step that the Bishops make to an argument for improved C3I.(27) That is an argument for improving technology based upon the possibility that "a constantly changing technical situation seems to warrant rejection of a permanently valid judgement that nuclear war cannot be controlled." (28) Hence, nuclear deterrence must be pursued as morally permissible as well as possible. The applicability of O'Brien's reasoning for this study lies in asking who indeed would be responsible for pursuing these technological issues and under what grounds might he find moral justification.

This particular edition of Thought in which the O'Brien article appears, devotes its March 1983 edition exclusively to how to improve deterrence. The lead articles by Secretary of Defense Weinberger and Governor Edmund G. Brown Jr. (29) mark the bounds for the current political debate. Brown's article deals with the nature of the relationship between the two superpower rivals, and the need for each to free itself from the bondage of mutual assured destruction which links and subsequently immobilizes each. (30) This is a relevant piece only in so far as it sets an upper limit for change. The Weinberger article comes

closer to home. It assumes the unhealthiness of this relationship as a given, and then arguing like O'Brien, leans on Pope Paul II's affirmation of the duty of christians to resist aggression. Secretary Weinberger finds room to move away from countervalue targeting(31) toward the goal of war prevention. He sees this movement as a function of duty and as the main moral rational for deterrence. But here the concerned military officer and his soldiers do not get much help or justification for assessing the moral impact of acceptable damage to civilians concurrent with a counterforce strategy. Especially if those targeted military installations and command posts are situated in hostage like population centers.

It is at this point that we must move from the character of the debate to its foundations in just war tradition, if we are to enter into the realm of personal culpability for individual action, and then into a prescriptive code for professional conduct. I have already mentioned Fagothey's Right and Reason on this subject earlier in this chapter. Chaplain (Major) Donald L. Davidson has published a good survey piece in his Nuclear Weapons and The American

Churches: Ethical Positions On Modern Warfare, in which the bulk of the text visits with the just war issue. (32) Chaplain Davidson develops just war from its earliest tradition through contemporary theory. He does not limit his view to just the Roman Catholic discussion, upon which I have drawn heavily. Rather, he reminds us that Protestants, through the National Council of Churches, as well as Lutherans, Southern Baptists and Jews alike, each have presented positions;

and the collective positions of of
(these) churches represent the
most powerful influence on moral
opinions in the United
States...and clearly, the(se)
churches view war and nuclear
weapons as moral issues. (33)

This position we found supported in the last chapter by none other than General Douglas MacArthur.

Davidson thinks that "the central issue (of the new debate surrounding just war) is how to protect and preserve values worth defending while preventing nuclear war." (34) This is a much more earthy perspective from that of Tucker in "The Nuclear Debate", previously noted. Tucker feels that the issue is not so much what we are doing, but how we do it--more precisely by way of the strategy of

deterrence.

Arthur Holmes approaches the problem of warfare and just war theory by mixing the frames of reference from which all surveyed to this point emerge: That is the contiguous domains of ethical (both theological and philosophical) and political theory. His historical anthology, War and Christian Ethics (35), combines a study of ethical and political theory, and presents a comprehensive survey of both christian and non-christian individual participation in combat. Value emerges not just in Holmes' commentary, but rather in the fact that he laces the text with original works by those philosophers and theologians that he surveys.

A similar theme can be found in Just War Tradition and the Restraint of War, by James Turner Johnson. (36) Johnson looks deeper into the subject than Holmes, adding a cultural dimension to his treatment of those events and characters who have shaped just war thinking since the middle ages. His thesis, which brings us one step further toward finding the relevance which I contend is at the heart of the Bishops' Letter, is that a fusion of history

and culture forces us to make morally correct choices within the realm of that which is politically possible.

Barrie Paskins and Michael Dockrill help with this transition in The Ethics of War.⁽³⁷⁾ They examine three concrete cases which bring our discussion into the realm of discrimination and proportionality, the two just war constraints raised by the Bishops. They examine the planting of bombs by terrorists and freedom fighters, the bombing of cities and metropolitan areas, and nuclear deterrence. The relevance in considering these three specific cases of contemporary warfare is that in each case the war is carried beyond the sphere of traditional combatants: classical armies, navies and air forces. Their analysis becomes instructive as we begin to impute responsibility for action in the following chapters of this study.

Terry Nardin, in Law, Morality and the Relations of States argues that law and morality form the indispensable structure for all desirable international association.⁽³⁸⁾ Nardin attempts to move us from the realm of conscience to the realm of

judgment by peers in a pluralistic international society. He sees law's purpose to be the regulation of the relations of states. Nardin sees international society:

distinguished from a state of extreme conflict not so much by the degree to which its members are moved to cooperate.....(but) by the degree to which they understand themselves to be members of a society defined by common rules. (39)

The link between philosophical thought, theological temperance, and ethics codified into a set of rules bound by culture is the way of civilized man. This study would not nearly begin to treat the subject of responsibility over acts in time of war, without linking one to the other. Nardin helps thread the needle for this task.

Finally, as we move from an examination of the inception of just war tradition, through its history, to its codification into law, and then to a recent application in the Bishops' letter; we are left to draw some prescription for future action. An initial review of the American Bar Association's Code of Professional Responsibility and Code of Conduct, and Samuel Southard's Ethics for Executives, was

disappointing.(40) But then, that may well be the postscript for this dissimilar attempt. The ABA text, in my view, becomes lost in the detail of its application, and Ethics for Executives approaches the opposite extreme when it attempts to reduce conflict in roles to:

one caused when we are not willing to relinquish worldly prestige, possessions, and social prominence in order to accept without reticence the strictest ethical restraints.(41)

Hopefully the treatment found in the remainder of this text will fall, in some meaningful way, between what James Sellers, in Public Ethics, calls the classical half-truths of the teleologists and deontologists.(42) He finds that the teleologist errors in his tendency to:

define his society's good as being realized only in a dynamic future and in the tendency to disregard the intrinsic worth of presently existing motifs and action.(43)

The deontologist, on the other hand, sees his society as static, a society that is viewed as a piece in time rather than a continuum. The deontologist:

in his rejection of a goal-oriented framework for appraising the moral...
...(describes) morality only in the special case of a society at rest, in which present reality were all that could be hoped for or ever dreamed of.(44)

The basis for much more perceptive hope lie in articles such as W.T. Jones' "Public Roles, Private Roles, and Differential Moral Assessments of Role Performance,"(45) or Denis Thompson's, "Ascribing Responsibility to Advisors in Government".(46) In the next chapter, I intend to run studies such as these against my baseline works; The Bishop's Letter, Fagothey's Right and Reason and To Serve With Honor, in search of a practical and usable way of prescribing ethical value to a soldier's actions.

CHAPTER 2

ENDNOTES

1. Milton A. Gonsalves, Fagothey's Right and Reason: Ethics In Theory and Practice (1985): iii.
2. Ibid., 510.
3. Ibid.
4. Richard A. Gabriel, To Serve With Honor (1982): 7.
5. Ibid., 8.
6. Ibid.
7. Robert W. Tucker, "The Nuclear Debate," Foreign Affairs Vol 63 #1 (Fall 1984) 18.
8. The Challenge of Peace: God's Promise and Our Response (1983): 39.
9. Tucker, 1.
10. Ibid., 18.
11. The Challenge of Peace, 40.
12. Pastoral Constitution of the Church in the Modern World, cited; The Challenge of Peace: 46.
13. Tucker, 19.
14. Bruce M. Russett, "Ethical Dilemmas in Nuclear Deterrence," International Security Vol 8 #4 (Spring 1984): 52-53.
15. Robert S. McNamara, "The Military Role of Nuclear Weapons," Foreign Affairs Vol 62 No 1 (Fall 1982): 59-80.

16. William H. Shaw, "Nuclear Deterrence and Deontology," Ethics Vol 94 #2 (Jan 1984): 248-260.

17. Jim Castelli, The Bishop's and the Bomb: Waging Peace in a Nuclear Age (1983).

18. Judith A. Dwyer SSJ ed., The Catholic Bishops and Nuclear War: A Critique and Analysis of the Pastoral The Challenge of Peace (1984).

19. Francis X. Winters SJ, "The American Bishops on Deterrence: Wise as Serpents, Innocent as Doves," in Judith A. Dwyer SSJ ed., The Catholic Bishops and Nuclear War (1984): 23-36.

20. Ibid., 30.

21. Ibid., 29.

22. Winters, 32-33.

23. Michael Howard, "Deterrence, Consensus and Reassurance in the Defense of Europe," Adelphi Papers No 184 (Summer 1983): 17-26.

24. McGeorge Bundy, "The Bishops and the Bomb," New York Review of Books Vol 30 No 10 (June 16, 1983): 3-8.

25. Winters, 29.

26. William O'Brien, "Proportion and Discrimination in Nuclear Deterrence and Defense," Thought Vol 59 (1984): 37-52.

27. "The Challenge of Peace", 60.

28. O'Brien, 47.

29. Casper Weinberger, "The Moral Aspects of Deterrence," and Edmund G. Brown Jr., "Nuclear Addition: A Response," Thought Vol 59 (1984): 5-14.

30. Brown, 12.

31. Countervalue targeting is targeting of cities. Counterforce targeting is targeting of the Armed Forces of another nation.

32. Donald A. Davidson, Nuclear Weapons and the American Churches (1983).

33. Ibid., xi.

34. Ibid.

35. Arthur F. Holmes, War and Christian Ethics (1970).

36. James T. Johnson, Just War Tradition and the Restraint of War (1981).

37. Barrie Paskins and Michael Dockrill, The Ethics of War (1979).

38. Terry Nardin, Law, Morality and the Relations of States (1983).

39. Ibid., 24.

40. American Bar Association, Code of Professional Responsibility and Code of Judicial Conduct (1978). Samuel Southard, Ethics For Executives (1975).

41. Southard, 7.

42. James Sellers, Public Ethics (1970).

43. Ibid., 21.

44. Ibid.

45. W. T. Jones, "Public Roles, Private Roles, and Differential Moral Assessments of Role Performance," Ethics Vol 94 #4 (July 1984): 603-620.

46. Dennis Thompson, "Ascribing Responsibility to Advisors in Government," Ethics Vol 93 #3 (April 1983): 546-560.

CHAPTER 3

CONDITIONS WHICH BOUND THE SUBJECT

"Philosophy is the antithesis of pragmatic action." (1)

At the outset, it seems appropriate to examine some basic concepts dealing with ethics and obligation before attempting to contrast the military ethic and aspects of the Bishops' Pastoral Letter.

Ethics and Obligation

To begin, we find the roots for a systematic study of ethics, and for that matter philosophy itself, with the Greeks. The word "ethics" is derived from the Greek word meaning custom. It is significant to note that a custom in the ancient Greek lexicon held special meaning. The Greeks drew an important distinction between custom and simple convention. (2) Customs were thought to be more basic in nature. The Greeks felt that customs dealt with the rightness and wrongness of acts, judgements about which seem to be inherent to the human nature. In short, customs, or ethics as we now call them, represent moral behavior. (3)

In a study of ethics we come upon two pertinent and basic concepts. The first deals with a fact of experience: man can distinguish right from wrong, and further, he has a feeling for that which he ought to do.(4) The second concept is derived from the first, in that man can innately assign a hierarchy of value to each "ought", and can further sort the moral oughts from all other values.(5) It is this concept of rightness or wrongness in an act, and man's ability to distinguish between the way things ought to be, as opposed to the way that they actually are, which gives ethics its character and applicability. Man, in the exercise of his freedom, voluntarily assumes an obligation to do that which is right and avoid that which is wrong.

Ethics is subsequently defined as the observance of those moral obligations, which man freely chooses through reason, as being that which he ought to do. Richard Gabriel in his book, To Serve With Honor, leads us to believe that these moral obligations are further tied to a person's role in the social order. He specifically defines military ethics as the observance of "those moral obligations and principles that are appropriate to a person's role within the military profession." (6)

In moving towards this definition we have arrived at a position which allows man to accept obligations within his special social order. However, in doing so we have implied the existence of a higher order.(7) In other words, those values achieved and accepted within a special social order "affect man only in some particular and optional aspects of his life, whereas true moral values must affect the man as man." (8) When one leaves this special social order, the true good, which man has become attuned to either in this special social order or by his very nature, does not lose its intrinsic value as good. Therefore, man does not lose his obligation to follow that good when he leaves, or more importantly in the case of a soldier, joins his special social order.(9)

It is possible, then, that man may adopt a moral code in his role in society which must subordinate itself to a higher norm when they come into conflict.

THE PROFESSIONAL ARMY ETHIC

In the end, all men must be responsible to their own conscience for what they believe to be right and wrong.(10)

The previous discussion of ethics in general develops a framework basic to an understanding of the uniqueness, order and hierarchy in moral value consciousness. Such an understanding is necessary in order to be able to interpret and apply the definition of an ethic against the U.S. Army standard, a standard accomplished within a special social order.

In August of 1981, the Army announced that certain "fundamental principles" could be "harnessed to a set of values and ideas....consistent with our nation's heritage and linked to our national goals and objectives." (11) It further decreed that these harnessed and linked values would be called the professional Army ethic. As a part of this basic statement of purpose, soldiers were advised that the United States Army holds resolutely to four fundamental and enduring values: loyalty to the institution, loyalty to the unit, personal responsibility, and selflessness. This "formalized soldier's philosophy....provide(s) the value base for military service in the professional sense." (12) It is additionally assumed that this philosophy builds upon certain professional "soldierly qualities":

commitment, competence, candor, and courage. The interactive product of these values and qualities is thought to be an ethical soldier.(13)

Fortunately, we do in fact have soldiers, many of whom are strongly ethical in their beliefs and actions. No genuine thanks is due, however, to the convoluted distinctions between ethics and soldierly qualities drawn in support of the professional Army ethic. Without doubt, those traits listed as the Army ethic are noble and supportable professional soldierly qualities. That is, they are traits which good soldiers must possess. However, they fail the previously established test as ethical. Each of these qualities affects a soldier only in some particular and optional aspect of his life.(14) On the other hand, a true ethical or moral value will affect the soldier as a man. For example, loyalty to the institution will affect the soldier, as a soldier, if the institution ceases to exist. Here he can no longer be loyal to that which ceases to be. But, the absence of the institution, on the other hand, will not affect his more basic existence as a man. He can still be true to himself. This form of existence which distinguishes man from every other being remains

constant and can neither be assumed nor discarded at leisure.

Looking at the professional ethic from another standpoint, we can readily see that some actions are right or wrong simply because someone who has the authority condones or forbids them. This authority stems from positive law, and without doubt the "state has the right to forbid some action not otherwise wrong for the sake of good order." (15) Some acts, however, by their very nature are recognized as good and "cannot be made a standard of conduct by any law or custom." (16) These acts, or normative actions, stand on their own regardless of any institution, custom or state of law. It is these acts which must form the basis for an Army ethic, for we are bound in conscience to observe these norms.

THE BISHOPS' LETTER - KEYS TO THE REALM

From now on, it is only through conscious choice and through deliberate policy that humanity can survive. (17)

Pope John Paul

Father Knut Ruyer notes that "the basic, and always relevant and disturbing problem confronting the

Christian community continues to be its relationship to the surrounding world." (18) The interface between Pope John Paul and Father Ruyer's statements raise a significant question regarding the application of moral discretion in nuclear warfare. Can a person of serious ethical disposition ever find justification for his role in its initiation or prosecution? The impact of this question upon members of the Armed Forces could be acute.

Fortunately, a grasp of the gravity of this last question has not escaped the Catholic Bishops' Conference. Although its Pastoral Letter deals generally with the subject of nuclear weapons and deterrence on a macrolevel, we do find some genuine understanding of the "special responsibilities" for the issues considered, as they apply to men and women in the military. (19) This understanding comes from a long tradition of shared views first expressed by Pope Pius XII and then restated by each subsequent contemporary Pope. Each in turn, although first emphasizing world peace as the natural condition of mankind, have recognized that a totally peaceful human existence is utopic.

"That is why Christians, even as they strive to resist and to prevent every form of warfare, have a right and duty to protect their existence and freedom by proportionate means against an unjust aggressor." (20)

It is from this tradition that the Bishops offer some reasonably specific guidance.

First, to those "involved in the exercise of authority over others", an urgent appeal is issued to explore every peaceful alternative before war is undertaken. Clearly a soldier must be satisfied to the extent of his own capability to conduct informed investigation that his superiors have explored "every possible peaceful alternative." (21) An informed investigation need extend only to that which can be reasonably expected of an individual based upon his capabilities. In the majority of cases it probably extends no further than a radio, newspaper, or television commentary.

In developing battle plans and weapons systems, we are urged "to try to ensure that these are designed to reduce violence, destruction, suffering and death to a minimum, keeping in mind especially noncombatants and other innocent persons." (22)

The Bishops further recognize that these issues are not new to those in the chain of command. Field manuals and training have traditionally prohibited certain actions in the conduct of war, "especially those actions which inflict harm on innocent civilians." (23) The confidence of our Bishops on this issue may be stronger than a more conventional wisdom would find prudent. The matter of collateral damage to population centers associated with nuclear use under current AirLand Battle doctrine could stand some rethinking, if not critical reevaluation. (24)

In Point, FM 100-5, Operations, which provides the doctrinal base for conduct of the United States Army in the field, makes no reference to principles contained in the Law of Land Warfare (25) that are to be applied to the design of battles and campaigns. FM 101-5, Staff Organization and Operations, which concentrates upon the procedures used to produce plans and orders does not formally incorporate consideration of the principles of proportionality and discrimination into the Air-land Battle planning process. Even the most basic of military planning tools, the Five Paragraph Field Order (26) does not

reference or for that matter contain a statement even remotely linking steps in the planning process with Law of Land Warfare considerations. (27)

Those who are responsible for the training of soldiers are enjoined to do so with the dignity and respect "demanded for and deserved by every human person." (28)

Dehumanization of a nation's military personnel by dulling their sensitivities and generating hatred toward adversaries in an effort to increase their fighting effectiveness robs them of basic human rights and freedom, degrading them as persons. (29)

Accurately and poignantly we are reminded that one of the most difficult problems of war involves "defending a free society without destroying the values that give it meaning and validity." (30) This emphasis clearly transcends the mechanics of making war and highlights that which is basic to human beings.

What of this question of basic human dignity? Is this really the core issue, or have the Bishops simply overstepped their religious charter and become involved beyond their recognized scope of authority?

This may in fact be the central issue. An examination of the scope of authority of a Catholic Bishop, and the implications which arise from his exercise of authority, could very well be relevant.

THE POSITION OF THE US CATHOLIC CONFERENCE

Catholic teaching on Peace and War has two purposes: First to help Catholics form their consciences: Second to contribute to the public policy debate about the morality of war.(31)

Traditional Catholic belief infers that the authority of a bishop stems from Christ himself. It was given to the apostle Peter as titular head of his church. He in turn was supported by the council of the remaining apostles. The Church teaches that bishops are the "successors of the apostles in ruling his (Christ's) flock." (32) Consequently, the authority of bishops has been described in terms of three broad offices: prophet (teacher), ruler, and sanctifier.(33)

Before the end of the first century direct successors to the original apostles developed two organizational structures, one hierarchical and one made up of people of different charisms. The

hierarchical form prevailed over time and was sanctioned under Ignatius, Bishop of Antioch, in 69 A.D. (34) Although bishops are appointed by the Pope as a matter of historical development, it is believed that they do not receive their authority from him, but rather from this direct line of succession. (35) When the bishops of the entire world meet and act in union with the Pope, the single direct successor of Peter, it is believed that full supreme and universal power over the church and its people is exercised.

This college, insofar as it is composed of many, expresses the variety and universality of the people of God, but insofar as it is assembled under one head, it expresses the unity of the flock of Christ. (36)

It is from this "expression of the variety and universality of the people of God" that we get a more precise definition of the bishop's interactive charge as rulers and teachers in the college. "The Bishop's role is to engage in a continual dialogue with his people", (37) and that is the stated mission of the Catholic Bishops in conference. "We see our role as moral teachers precisely in terms of helping to form public opinion. (38)

The US Catholic Conference in the exercise of its "ordinary magisterium" subsequently chose to issue a Pastoral Letter as the form to guide the faithful on what they are to believe and do.(39)

All agree that the Doctrine of Infallibility does not extend to these teachings. In order for this doctrine to apply, teachings on a matter of faith and morals "must reflect that the Bishops concur in a single viewpoint as the one which must be held conclusively."(40) A review of the proceedings of the Ad Hoc Committee as well as correspondence originating from the office of Cardinal Cook, then U.S. Military Vicariate, shows less than the required unanimous agreement, even if the forum were correct.(41)

All of this finds applicability in the fact that situations will arise in which a Catholic, after a genuine and thoughtful attempt, cannot accept his church's authoritative teaching. More simply put, he cannot reconcile his grasp of the issues with the gospel preached by the church. In such cases his conscience must be his ultimate guide.

Although it has been noted that infallibility is not at issue here, it is instructive to follow the

reasoning of Cardinal John Newman on the subject of authority and infallibility. It is reported that shortly after the announcement of the Doctrine of Infallibility in 1870, Cardinal Newman was hypothetically asked how he would resolve a conflict between an infallible teaching which violated his conscience. Without hesitation, he reputedly replied "that he would obey his conscience first and the Pope second." (42) His conclusion is direct enough. Authority acts as a guide for the development of one's conscience, but cannot act as a substitute for it.

Bearing Cardinal Newman's instruction in mind, the Bishops in "charting a moral course in a complex moral public debate" (43) appear to be on solid ground. It is this moral dimension dealing with life, death, and human dignity which gives the Bishops license to speak. The fact that the questions also have a "political dimension because they are embedded in public policy" (44) cannot absolve them (the Bishops) from their obligation to provide members of the US church with the help that they may need in forming their consciences. Furthermore, as these issues involve morals, and moral values are apolitical as

well as religious, not being necessarily reducible to either singularly, the Bishops' deliberations take on a broader context.

One further note regarding the application of authority is in order. The Bishops have correctly suspected "criticism of the Church's concern with these issues on the grounds that it should not become involved in politics." (45) To this criticism the council correctly argues that the church's "authority does not carry the same force when it deals with technical solutions involving particular means as it does when it speaks of principles or ends." (46)

In the former case we must appropriately concede that religious groups, short of invoking Divine guidance, are as entitled to their collective opinions as are any other interest groups. (47) In this instance it appears that we can correctly reject charges of church meddling in affairs of state.

LAW AND THE RULE OF CONSCIENCE

The prosecutor (can) thank its own obedient soldiers for being in a position to prosecute.

Jodl--Nuremberg War Trials (48)

Thus far I have attempted to establish a link

between conscience, authority and basic human values. It is becoming more clear that man as a soldier may owe allegiance to a higher set of values than those articulated in FM 100-1. Furthermore, it seems that the values of FM 100-1 may be qualities necessary for good soldiering, but may not necessarily be those of the good man. If they may not be those of the good man, and we have not identified moral values common to both the good man and good soldier, we may have to look to other forms of authority for guidance. When we look elsewhere, the possibility of a conflict between authorities arises and the question of obedience becomes a central issue. Here the echo of Jodl's statement resounds.

The obedience of a soldier in support of a just cause is the hallmark of soldierly qualities. However, the question which Jodl raises is appropriate when considering against whose standards we measure the just cause. If it can be established that competent authority (soldiers and/or statesmen) has erred in the past, no matter how noble their intentions, then we must allow the possibility of the question and the resulting possibility of

disobedience. Said another way, if the means applied toward an end "undermine the values we seek to pursue" then the means simply cannot be used.(49) The question as to what means can be employed and what cannot, or rather what must be applied with great care, may itself have become hard to answer.

The dehumanization of modern warfare has given us the ability to kill or maim indiscriminately at great distance. Most of those involved will never experience the conflict of conscience, obligation and authority associated with this "uncomfortable tension." (50) Author Erich Remarque in his classic World War I novel, All Quiet on the Western Front, tells us of the fictional German Private, Paul Baumer, who, after mortally wounding his enemy, watches him die a slow and painful death. (51) Warfare for Private Baumer becomes a personal and human experience. Here Remarque, although in pursuit of a grander theme, does ask if the common rules of soldiering apply equally to general and private, or is there a higher order to which both owe allegiance?

In fact, Remarque and Jodl raise the same issue from obviously diverse positions. Each asks for a

resolution of this tension. Each asks for a definition of priority between the extremes of military expediency and humanitarian principles.

As a basis for development of standards of conduct, which address this tension, we must find some condition which disallows corruption between the "rude pressures of necessity on the one hand and the seductive lure of a higher humanitarianism on the other".(52) The first position embraces a logic of opportunism which calls for the absence of ethical constraints in favor of the short term gain. The latter "invites us to inflate the worth of the ends for which we are fighting, identifying victory ... with liberty, welfare, and sometimes survival of humanity as a whole".(53) In either case each appeals to some higher order, to which both owe allegiance, to present a set of conditions which can be used to justify conduct that violates the common rules, which appear as obstacles to their realization. Clearly these conditions must fall within the bounds of human decency.

A look into the Law of Land Warfare does provide some, but less than satisfying, insight into these

conditions. It tells us that this higher allegiance could not rest solely upon the conditions of respondent superior, a plea which holds that obedience to authority simply involves following orders. This is the plea that marked the essence of German defense in the trials at Nuremberg. Rule of law clearly condemns a soldier, regardless of rank, if he obeys a criminal order, even if that refusal could result in his own death or punishment(54), the consequence of his disobedience. This outwardly callous ruling does offer some latitude for the protection of "those whose opportunity for reflection, choice, and the exercise of responsibility is nonexistent or limited." (55) Hence, an officer, who by virtue of rank and position is thought to be offered these opportunities, can subsequently be held to a higher level of accountability than can the common soldier. (56) The importance of this example, however, lies not in the degree of legal accountability, nor the order itself, but in the fact that the respondent in all situations must exercise some form of moral discretion. This point is further amplified in the record of proceedings against Otto Ohlendorf, argued before this same international military tribunal. Ohlendorf was

reputedly responsible for over 90,000 concentration camp deaths in the prosecution of his authority under Nazi German rule during World War II. In defense of his acts, Ohlendorf argued that there is no question of moral deliberation being open to a serving soldier, especially an officer, "who must deal with such serious questions, (that he is obliged to) decide from his own responsibility." (57) Ohlendorf argues that an officer simply does not have the license to judge beyond the confines of his office. The Nuremberg Tribunal ruled against Ohlendorf on the grounds that "a soldier is a reasoning agent....(and not)....a piece of machinery." (58)

The issue involved in both the Jodl and Ohlendorf cases is the clear inability to absolve one's self of one's moral duty regardless of position or authority. This duty invoked here involves the requirement to make moral judgements to which every man is held responsible. (59) This duty, properly recognized in the U.S. Law of Land Warfare, (60) calls upon soldiers to apply standards of judgment and allegiance to a higher order than that of loyalty to the institution, loyalty to the unit, etc.

Thus, we have reached the critical point in this discussion. Is there a conflict between what the Bishops' letter asks soldiers to consider and do as a matter of conscience versus what our nation demands of them under rule of law? Clearly, in principle, there is not, for both the nation and the Bishops agree that when a conflict of moral values arise, conscience rules.(61) Man must subject himself to that which he inherently knows to be right, that which he instinctively knows he ought to do.

The value of the Bishops' letter for members of the military may lay not in what it prohibits, but rather in what it prescribes. The key issues addressed by the Bishops may not be ones of yield, level of damage, loyalty to institution or unit, etc., for these issues address technical applications involving means associated with the implementation of policy. The Bishops have appropriately concerned themselves with the way in which we construct or reinforce our moral values, the articulation of which we fail to find adequately, or for that matter correctly, addressed in FM 100-1. "Choice between one's role in the military and other roles can be resolved only when a soldier can clarify his own values."(62) Clearly

establishing and teaching a substantive ethic for soldiers may help clarify those values and subsequently may become a part of the rule of life for men of this profession.

The Bishops' suggestions regarding the sanctity of human existence and the dignity of man have a direct application in this process for:

No society can live in peace with itself or with the world without a full awareness of the worth and dignity of every human person and of the sacredness of all human life. (63)

CHAPTER 3

ENDNOTES

1. Richard H. Gabriel, To Serve With Honor (1982): 23.
2. For a discussion of convention within the context of absolutism see Thomas Nagel "War and Massacre" in Marshal Cohon, Thomas Nagel, and Thomas Scanlon, War and Responsibilities (1974): 15.
3. For a more complete discussion of this concept as moral philosophy, see Austin Fagothey S.J., Right and Reason: Ethics in Theory and Practice (1963): 14 and Gabriel, 27.
4. W.T. Jones, "Public Roles and Differential Moral Assessments of Role Performance," Ethics Vol 94, No. 4 (July 1984): 609. See also Fagothey, 21 and Cohon, Nagel, and Scanlon, 5.
5. Ibid., 60. For a slightly different perspective arriving at the same conclusion see Nagel: 42.
6. Gabriel, 27.
7. W.T. Jones makes a slightly different assessment. He argues that the moral problem is not which role makes the greater claim, but rather the issue is "to decide what to do when the circumstances for which the role was designed have changed so much that the behavior called for by the role may no longer be appropriate." Jones, 613.
8. Gabriel, 54.
9. Jones, 611.
10. Gabriel, 54
11. US Department of the Army, The Army, Field Manual 100-1, 14 August 1981, p. 23.

12. Ibid.

13. Ibid., 23-26. See also William H. Shaw, "Nuclear Deterrence and Deontology," Ethics Vol 94 No 2 (January 1984): 259. Here, Shaw criticizes the product of this type of reasoning applied strategically as narrow and jaundiced--"a very bad logic indeed." His point is worth considering.

14. Albert Flores and Debora J. Johnston, "Collective Responsibility and Professional Roles," Ethics Vol 4 No 3 (April 1983): 542.

15. Fagothey, 76.

16. Ibid.

17. "Moral Choices of the Future," Origins: NC Documentary Service. Vol 10, No. 39, (March 12, 1981): 621.

18. Knut Willem Ruyter, "Pacifism and Military Service in the Early Church," Cross Currents Vol XXXII, No. 1 (Spring 1982): 63.

19. The Challenge of Peace, : God's Promise and Our Response (1983): 93. See also Bruce M. Russett, "Ethics of Nuclear Deterrence," International Security Vol 8 No. 4 (Spring 1984): 40. Russett notes a constraint which the Bishops were careful to observe when preparing their letter. He contends that they were unwilling "to demand of people an obedience they were not yet ready to give as a matter of conscience." See Flores and Johnson, 532 for a clarification of the term "responsibility".

20. Pope John Paul II, "World Day of Peace Message 1982", Origins: NC Documentary Service. Vol 11, No 12 (1982): 478.

21. The Challenge of Peace, 94. See also Denis Thompson, "Ascribing Responsibility to Advisors in Government," Ethics Vol 93, No 3 (April 1982): 554-559. Thompson takes us into a realm once removed from direct participation--the role of advisor or secondary agent.

22. The Challenge of Peace, 94.

23. Ibid.
24. Shaw, 259 and Russett, 42-49.
25. US Department of the Army, Operations, Field Manual 100-5, 198.
26. US Department of the Army, Staff Organization and Operations, Field Manual 101-5, May 1984. The fact that such guidance may exist is found in passing as a one line entry in Reference 2.
27. Credit for recognizing this linkage may accrue to this institution in that three hours of its nine month regular course are devoted to a study of Law of Land Warfare. A more substantive effort is underway by the Judge Advocate General Corps as they attempt to carve out a more interactive battle field role for legal officers. Commander FORSCOM message, AFJA-RP, 292030Z Oct 84, SUBJECT: Review of Operations Plans, represents one of the most important initiatives thus far. It directs that a "Legal advisor will review and advise commanders and staff on all operational plans and orders.....as a member of (that commander's) operations team." Unfortunately this courageous initiative has not yet found its way into the appropriate doctrinal publications.
28. The Challenge of Peace, 94.
29. Ibid.
30. Ibid.
31. Ibid., 6.
32. Ronald Lawler, Donald Wuerl, and Thomas C. Lawler, ed. The Teaching of Christ: A Catholic Catechism for Adults (1976): 219. See also Anthony Wilhelm, Christ Among Us, 2nd ed. (1975): 140.
33. Lawler, Wuerl, Lawler, 211.
34. Wilhelm, 139.
35. Ibid., 140.

36. Ibid.

37. Ibid., 147. This point is further clarified in Michael Novak, "Moral Clarity in the Nuclear Age," National Review, Vol XXXV, No 6 (April 1, 1983): 356-357.

38. The Challenge of Peace, 43.

39. Ibid., i and 87.

40. Lawler, Wuerl, Lawler, 224.

41. Terrence Cardinal Cook, Pastoral Letter, December 7, 1981. For a comprehensive view of proceedings which place Cardinal Cook's letter into the perspective of events, see Jim Castelli. The Bishops and the Bomb: Waging Peace in a Nuclear Age 1982): 26-39.

42. Wilhelm, 100. See also note 19.

43. The Challenge of Peace, 44.

44. Ibid., 87.

45. Ibid.

46. Ibid. The Pastoral contains two universal and mutually binding principles: innocent noncombatants are immune from direct and intentional attack; and harm caused by the use of force must be proportionate to the good to be achieved. Catholics appear specifically bound to apply just war criteria (Pastoral, paragraphs 80-110), not to engage in warfare indiscriminately against... entire cities" (paragraphs 147-149), and to avoid total nuclear war (paragraph 150). The remainder of the discussion in this Pastoral seems to be an application of prudent judgement exercised by learned men attempting to apply church teaching and moral principle. Obviously these applications are subject to debate.

47. Ibid. For a complete treatment of this subject see Donald L. Davidson, Nuclear Weapons and the American Churches: Ethical Positions on Modern Warfare (1983).

48. Guenter Lewy, "Superior Orders, Nuclear Warfare, and the Dictates of Conscience," in Richard A. Wasserstrom ed. War and Morality, (1970), 131.

49. Ibid., 132.

50. Terry Nardin, Law Morality and the Relations of States (1983): 291.

51. Erich M. Remarque, All Quiet on the Western Front, (1958): 189-199.

52. Nardin, 291.

53. Ibid., 291-292.

54. Lewy, 119.

55. Ibid.

56. Ibid., 120.

57. Ibid.

58. Ibid., 121.

59. Shaw, 258.

60. US Department of the Army, The Law of Land Warfare, Field Manual 27-10 with C1, 15 July 1976, 182.

61. US Army, The Army, FM 100-1, 24. See also The Challenge of Peace, 72.

62. Gabriel, 54. The possibility of a disconnect between values and soldierly roles has not yet entirely escaped senior army leadership. This year, 1986, has been designated the year of "Army Values"--not so tacit recognition that these "values" could stand some reexamination.

63. The Challenge of Peace, 88.

CHAPTER 4

CONCLUSIONS LEADING TOWARD A TRULY PROFESSIONAL ETHIC

The record of the actions of Jesus Christ in the Gospels show Him forbearing to soldiers, even kind. He was rough with politicians, lawyers, financiers, professors and divines.

General Sir John Hackett(1)

There seems to be good evidence to support the fact that a professional soldier owes an allegiance to a higher set of values than those articulated in FM 100-1.(2) If the Bishops are correct when they assert that the sanctity of human life embodies these higher values, and man is bound in conscience to pursue the sanctity of life, then we must develop an ethical base which appropriately reflects and supports these two concepts. Should we fail to do so, we run the risk of disenfranchising serious moral thinkers serving in the Armed Forces of the United States.

The Army Ethic

A PROPOSAL IN CONCLUSION

The following ethic is offered in place of that contained in FM 100-1. It is designed to reflect what I consider to be moral and more proper professional

values. Each precept is specifically written to complement those necessary soldierly qualities such as loyalty to institution, loyalty to unit, etc., which I judge to be incorrectly labeled in the current edition of FM 100-1 as the Professional Army Ethic, but which are fundamental to good soldiering.

1. Soldiers are men and women with consciences shaped by their moral obligations. This precept recognizes man's first overwhelming obligation to follow the dictates of that which he inherently and unequivocally knows to be right, that which he ought to do. (3)

2. Every soldier holds a special position of trust and responsibility to all men, not just his fellow countrymen. We have reaffirmed, within this short thesis, the principle of association as applied to the professional man. That is, in order to be truly professional, a soldier's ethical position must relate to mankind as a whole, and not to just some particular subset of mankind delineated by national boundaries or cultural differences. Two corollaries to this ethical precept naturally and logically emerge:

a. An officer's first duty, the pursuit of peace, is to mankind; his second duty is to the welfare of his men; and, his third duty is to the execution of his mission, the latter being dependent upon the second to accomplish the first.(4)

b. In order to execute his duty to mankind, he must strive to reduce to a minimum the violence, destruction, suffering, and death of soldiers and civilians alike. The pursuit of peace is indeed that duty which a soldier and his officer owes to all mankind. It is this universal and singular element of a soldier's ethic which gives it professional credibility. For it is this bent toward peace which obligates a professional to limit violence, which he must inflict, to that which is absolutely the minimum necessary to achieve peace.

3. A soldier's sense of ethical integrity is the center of his effectiveness as a soldier and leader. Violating one's sense of honor is never justified.(5) Richard Gabriel tells us, in the most basic of terms, that "some things are not done." (6) There is without a doubt a point beyond which man knows that he cannot

pass. Regardless of the consequences, his conscience dictates that he must go no farther. A soldier, no less a man, is bound by this equation. "It is at the center of a leader's effectiveness." (7)

4. A soldier is morally obligated to follow all lawful orders, but he must never execute an order that is morally wrong. Little need be said here, as this is a fundamental precept of the Law of Land Warfare reaffirmed at Nuremberg, and in the more recent My Lai incident. (8) Guidelines involving questions of what is morally right and wrong can indeed be shaped by law, tradition, etc., but our decisions are firmly rooted in conscience, the first ethic.

A FINAL NOTE

A man only really gets the best out of the men he commands by something approaching a complete fusion of his own identity with the corporate whole they form.

General Sir John Hackett (9)

It does seem clear, then, that there is linkage between conscience, authority, and basic human values. Additionally, it is clear that man as a soldier owes an allegiance to a higher set of values than simply

loyalty to institution, loyalty to unit, etc., each of which are qualities necessary for good soldiering, but affect only peripherally values of the good man. It seems that the U.S. Catholic Conference has accurately and effectively directed our attention to what may be a fundamental flaw of contemporary soldiering. It seems clear that the Army, and most probably the American military in general, are "professionals" without a real ethic. That is an ethic based upon traditional rule of conscience and recognized genuine worth of individual human beings, who by choice have adopted the role of soldiers. It may be true that having a code and living by it are miles apart, but similarly, it will require this first step in order to satisfy succeeding ones. Indeed, it may be possible that if we get this first step right--then the rest will follow.

CHAPTER 4

ENDNOTES

1. General Sir John Hackett The Profession of Arms (1983): 209.

2. FM 100-1 alludes to higher values, but convolutes their derivation and application. It references fundamental values to which "The Army ethic holds resolutely," yet suggests that "formal expression of that ideal lags behind the current ebb and flow of society's aspiration and values." We cannot have it both ways--fundamental and enduring and changing with aspirations. See US Army, The Army, FM 100-1, 23-24.

3. Ibid., See also US Department of the Army, Military Leadership, Field Manual 22-100 January 1983, 4-18.

4. This concept is formed from and fit to an understanding of the complex nature of deterrence. In this era forces exist: First, to deter war (the pursuit of peace); and Secondly, if deterrence fails, to prosecute that war to some desired outcome. In order to accomplish the latter, an officer's force must then be trained (his obligation to the welfare of his men) and subsequently be deployed, prepared to perform its warfighting tasks) execution of mission).

5. Richard H. Gabriel, To Serve With Honor, (1982) 141.

6. Ibid.

7. Ibid.

8. Ibid., 41.

9. Hackett, 228.

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